

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 APRIL 2, 2015

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday, April
5 2, 2015, at City Hall, Commission Chambers, Owensboro,
6 Kentucky, and the proceedings were as follows:

7 MEMBERS PRESENT: Larry Boswell, Chairman
8 Steve Frey, Secretary
9 Brian Howard, Director
10 Terra Knight, Attorney
11 Ward Pedley
12 John Kazlauskas
13 Lewis Jean
14 Beverly McEnroe
15 Manuel Ball
16 Larry Moore

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18 CHAIRMAN: I would like to call the Owensboro
19 Metropolitan Planning Commission April 2, 2015 meeting
20 to order. We will start our meeting with a prayer and
21 pledge of allegiance.

22 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

23 CHAIRMAN: I would like to state that anyone
24 who addresses the meeting tonight please step forward
25 to the podiums. Speak into the speaker and give us
your name and address and any information that you
would like to share about what we have on the agenda
tonight.

The first order of business would be to

1 consider the minutes of our March 12, 2015 meeting.

2 Has everyone read the minutes of the meeting and are
3 there any questions?

4 (NO RESPONSE)

5 MR. KAZLAUSKAS: Make a motion that they be
6 approved.

7 MR. BALL: Second.

8 CHAIRMAN: A motion has been made and a
9 second. Manuel Ball seconded that one. Vote for
10 approval of the minutes of the meeting. All those in
11 favor of approval of the minutes of the meeting raise
12 your right hand.

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: The motion is approved unanimously.

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16 GENERAL BUSINESS

17 Zoning Change

18 ITEM 3

19 516 Ewing Court, 0.14 acres (Postponed from March 12,
20 2015 OMPC meeting)

21 Consider zoning change: From R-4DT Inner City
22 Residential to B-4 General Business

23 Applicant: Lifetime Companion, LLC; Haley McGinnis
24 Funeral Home

25 MR. HOWARD: This item was postponed at the
March 12, 2015 meeting. We have received a request
from the applicant's attorney again that this item be

1 postponed for one more month. There is still a legal
2 issue that is trying to be resolved. So we would ask
3 that you give them the potential for one more month.
4 We have said at that point if there hasn't been some
5 type of resolution we'll have to figure out what to do
6 from there. We would ask that you consider for
7 postponement tonight.

8 CHAIRMAN: Do we have a motion for
9 postponement?

10 MR. MOORE: So move.

11 MR. JEAN: Second.

12 CHAIRMAN: All those in favor of postponing
13 this until the next meeting raise your right hand.

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: The postponement carries.

16 MR. HOWARD: I will note all zoning changes
17 heard tonight will become final 21 days after the
18 meeting unless an appeal is filed. If an appeal is
19 filed, we will forward it to the appropriate
20 legislative body for them to take final action. The
21 appeal forms are on the back table, on our website and
22 in our office.

23 ITEM 4

24 Portion of 5422 Highway 144, 0.72 acres
25 Consider zoning change: From R-1A Single-Family
Residential & A-U Urban Agriculture to B-4 General
Business

1 Applicant: Susan A. Cox & Joseph B. Taylor

2 MS. KNIGHT: State your name for the record.

3 MR. HILL: Mike Hill.

4 (MIKE HILL SWORN BY ATTORNEY.)

5 PLANNING STAFF RECOMMENDATIONS

6 The Planning Staff recommends approval subject
7 to the conditions and findings of fact that follow:

8 CONDITIONS:

9 1. Approval of the minor subdivision plat
10 dividing the 1.14 acre B-4 zoned parcel from the 3.6
11 acre R-1A/A-U zoned remaining portion of 5422 Highway
12 144.

13 2. Access to the new 1.14 acre parcel will be
14 through the abandoned section of Old KY 144 along the
15 western edge of the property. No direct vehicular
16 access to Highway 144 will be allowed.

17 FINDINGS OF FACT:

18 1. Staff recommends approval because the
19 proposal is in compliance with the community's adopted
20 Comprehensive Plan;

21 2. The subject property is located in a
22 Business Plan Area where general business uses are
23 appropriate in limited locations;

24 3. The proposed retail use conforms to the
25 criteria for nonresidential development;

1 4. This proposal is a logical expansion of
2 existing B-4 zoning to the west and north; and

3 5. At 0.72 acre, the proposal is not a
4 significant increase in B-4 General Business zoning in
5 the vicinity and should not overburden the capacity of
6 roadways and other necessary urban services that are
7 available in the affected area.

8 MR. HILL: Staff request that the Staff Report
9 be enter into the record as Exhibit A.

10 CHAIRMAN: Is there someone in the audience
11 representing the applicant?

12 State your name, please.

13 MS. ZACKERY: Brandy Zackery with Arnold
14 Consulting Engineering.

15 (BRANDY ZACKERY SWORN BY ATTORNEY.)

16 MS. KNIGHT: Ma'am, are you an attorney?

17 MS. ZACKERY: No, I am not. I'm an engineer.
18 We prepared the document for the applicant.
19 Mr. Taylor is also here if you have any direct
20 questions for him.

21 CHAIRMAN: Are there any questions concerning
22 the zoning by the commissioners?

23 (NO RESPONSE)

24 CHAIRMAN: I do have a couple of questions, if
25 you hopefully be able to answer these.

1 In looking at the Staff Report, I want to get
2 sort of a sense. Do we have any idea what type of
3 development for retail purpose that they may
4 anticipate putting in that location?

5 MS. ZACKERY: Yes. Proposed Dollar General
6 store.

7 CHAIRMAN: The reason that I raise that
8 question, in looking and being somewhat familiar with
9 that area, there appears to be a narrow entrance or
10 access off the Old 144, and depending upon what type
11 of retail business would go in there would generate
12 such an amount of traffic. Would there be any
13 consideration to make changes to that access off of
14 144 onto the Old 144 road? Has that been anticipated?

15 MS. ZACKERY: It wasn't anticipated to begin
16 with. I will say that a few minutes ago when he was
17 presenting this it was the first that I knew that we
18 wouldn't have any direct access to Highway 144. I
19 guess we just hadn't got that far into the discussion
20 so I wasn't aware that was going to be a stipulation.

21 With that being our entrance that we had
22 proposed on concept that we were going to move forward
23 with did have an entrance onto Highway 144. So we're
24 going to have to go back and revisit that concept to
25 make sure we can. Like you said, the old road I'm not

1 for sure. We've surveyed the edge of the pavement of
2 it and things of that nature. I'm not for sure
3 because there will be, at least once a week there will
4 be a tractor-trailer that delivers from Dollar
5 General. So we'll just have to check and see how that
6 access is going to get in and out of there. It may
7 require something to be done to that.

8 CHAIRMAN: I just raised the concern because I
9 know in heading east you arrive at that Old 144 road
10 pretty quickly and the traffic is quite, goes quite
11 fast out there. I wanted to sort of get a sense that
12 something might be looked into at some point in time.

13 Brian, you may be able to answer this. I know
14 that there would have to be an approval of a minor
15 subdivision plat. Would that be a consideration if
16 that should occur down the road?

17 MR. HOWARD: In regard to the access?

18 CHAIRMAN: Access.

19 MR. HOWARD: Yes. That's certainly something
20 that we'll have to look at when the site plan and all
21 of that is submitted.

22 Just to give you a little background, and Mike
23 did the report so correct me if I'm wrong. I didn't
24 pull all the files and look at it. The portion of
25 property that was zoned B-4 years ago, when that was

1 done there was a condition about access limiting it to
2 this existing Old 144 only. There was a plat done I
3 believe as well that limited access to that. They
4 don't have enough road frontage to meet the access
5 spacing standard, 500 feet along that section. So
6 that's why in past there was limitations on where the
7 access points could be and that type of thing. So
8 that's why we basically carried that forward from the
9 history of that property. It would have to be built
10 to a commercial standard, a paved driveway that's wide
11 enough to accommodate two-way traffic and, you know,
12 if they have semi traffic and that type of thing.
13 Enough width to be able to accommodate that without
14 compromising the roadway of 144 or blocking traffic on
15 the driveway and that type of thing.

16 CHAIRMAN: Thank you, Brian.

17 Is there any commissions by the commissioners?
18 Commissioner Kazlauskas.

19 MR. KAZLAUSKAS: Mr. Howard, would it be
20 advantageous to change this condition at this point
21 before we voted on this or would it be better to
22 change later on down the road?

23 MR. HOWARD: What kind of change are you
24 thinking?

25 MR. KAZLAUSKAS: Well, you're talking about,

1 what you're describing at this point is that there's
2 only going to be one point of entrance of access and
3 exit off of 144, right?

4 MR. HOWARD: Yes. I mean if you wanted to
5 provide some clarification. I think the condition
6 states that -- if you want to provide some
7 clarification that needs to be built to commercial
8 standard and paved, that would certainly be fine.

9 MR. KAZLAUSKAS: Well, this is the first that
10 the applicant has seen this condition from what she's
11 telling us. Do they need more time to go back and
12 look at this? I don't want them to come back and say
13 that they want to do something else and we have to go
14 through another hearing. What I'm looking from you is
15 a direction on the easiest way to get this done for
16 the applicant. That's what I'm after.

17 MR. HOWARD: Right. And from that
18 perspective, as Staff we're always going to say that
19 the access needs to be limited to one location because
20 they can't meet the spacing standard. It's been
21 limited to that in the past. So that's what we would
22 look for. Whether they reevaluate how their site is
23 going to be laid out and things like that, you know,
24 we'll be glad to work with them on that, but we're
25 looking for a single access point to serve that

1 property only.

2 MR. KAZLAUSKAS: That single access point is
3 going to have to meet the standards that the Staff
4 recommends to the applicant?

5 MR. HOWARD: Right. The entire property
6 doesn't even have 500 feet of road frontage. So
7 that's why in the past when it was limited to single
8 location it was because the entire property doesn't
9 have 500 feet.

10 The existing one that's there, they couldn't
11 meet the 500 foot spacing standard on their own
12 property and still put another one in. So that's why
13 that condition has been there.

14 MR. KAZLAUSKAS: As long as the applicant
15 understands that, I wouldn't have a problem with that.

16 MS. ZACKERY: This is actually still a section
17 of right-of-way because we were getting conflicting
18 documents when we were surveying on the old road. We
19 found documents where sections of that had been
20 closed. It appeared that the section right up at
21 Highway 144 had not been closed, but we've not done a
22 full ALTA survey on our property yet. That's the only
23 thing I'm trying to verify, is that old -- because the
24 property behind us, the plat we found for the property
25 to the west, they actually had a recorded access

1 easement for their driveway which is kind of confusing
2 as to whether that's actually still right-of-way or
3 not.

4 MR. TAYLOR: I think I can clear up some of
5 that confusion, if I may.

6 MS. KNIGHT: Would you state your full name
7 for the record please, sir?

8 MR. TAYLOR: Joseph B. Taylor.

9 (JOSEPH TAYLOR SWORN BY ATTORNEY.)

10 MR. TAYLOR: The old road is property that's
11 abandoned by the state. If it's ever given back to
12 the adjoining property owners, the property owners
13 will own to the mid line of the road. The person that
14 lives on the hill behind the property that we're talk
15 ing about rezoning has an easement up the hill and
16 they actually own the driveway up the hill. We have a
17 permanent easement on that driveway to access our home
18 in the back, the home that I own. I don't live there
19 any more. My parents did. If the property, the old
20 road was given back to the adjoining property owners,
21 he would own to both sections right in front of his
22 house. We have access to the creek bottoms there
23 that's in crop. We would file for an easement of
24 necessity immediately upon that; however, it hasn't
25 been given back to the adjoining property owners in

1 the last 50 plus years. That road went through there
2 in '62, '63.

3 I'm trying to understand, I didn't hear all of
4 Condition 1, about the easement. Are you talking
5 about the only access to the planned Dollar General
6 store being off of the old road. You would turn off
7 of 144, current 144 onto the abandon property and then
8 turn left in there or are you talking about putting an
9 easement onto 144 for them to access their store?

10 MR. HOWARD: The condition would be that you
11 turn off of 144 onto the portion of Old 144 and that's
12 where the access would be.

13 MR. TAYLOR: One question I would like to ask
14 without being argumentative. Why can they not put an
15 easement on 144?

16 MR. HOWARD: That was where I was explaining
17 the access management regulation. There's a 500 foot
18 spacing standard along 144. So you have that existing
19 old 144.

20 MR. TAYLOR: Could I ask a question here? Why
21 was that law or that rule not imposed when Martin
22 Hayden got the property rezoned for D&D Hardware? His
23 easement is less than 50 feet from a driveway?

24 MR. HOWARD: I have no recollection or no
25 knowledge of that property. My question would be, I

1 guess, how big was the property? How much road
2 frontage did it have? Did it have a viable
3 alternative access point? If it's a parcel that has
4 no other viable access points, you know, they have to
5 have access somewhere. I don't know the specific
6 property.

7 MR. TAYLOR: Can you research that from the
8 records? Do you all keep records back to the '90s?

9 MR. HOWARD: Sure.

10 MR. TAYLOR: I would certainly be interested
11 in knowing why that that access point was granted.
12 Because when I originally zoned this property there
13 was quite a hassle over it. I was given a lot of
14 information that I couldn't do it. That the area was
15 not right for development when Martin had rezoned his
16 property only about two years before and it had been
17 said it was right for development. I took some
18 pictures of the easement less, than 50 feet. Was told
19 that I couldn't put an entranceway for some buildings
20 that I wanted to build at the time. I would like to
21 see why the consistency is not there in the rulings.

22 MR. HOWARD: I don't have the files here. I
23 was just looking through the history that we have.
24 We've got two previous zoning changes. One from R-1A
25 to I-1 and then from R-1A to B-4. R-1A to I-1 was

1 denied. The one for B-4 was approved back in 1997.

2 MR. TAYLOR: It was approved by Fiscal Court
3 where they overrode OMPC.

4 MR. HOWARD: Right.

5 CHAIRMAN: I guess my question at this point
6 of the commission might be, is this enough missing
7 information here that we need to revisit this at a
8 different time, allowing them some time and Brian some
9 time to try to get more data available? I pose that
10 as a question to the commission.

11 MR. MOORE: I think that would be wise if we
12 did that.

13 MS. KNIGHT: It may also be up to the
14 applicant.

15 CHAIRMAN: Right. If the applicant willing
16 to. If there's enough mission information and enough
17 questions here that you've raised and missing
18 information that she indicated that she wasn't aware
19 of on 144.

20 MR. TAYLOR: It doesn't matter to me whether
21 they go in off of 144 or off of current 144. That's
22 irrelevant to me.

23 My question is, the reason I came up, I just
24 wanted to question why they couldn't put an entrance
25 off of 144 when it's been allowed right up the road

1 less than a mile away.

2 CHAIRMAN: I understand your question, but I
3 don't know that that's relative to what we're trying
4 to do tonight. I understand your question.

5 MR. TAYLOR: Okay. Maybe I misunderstand what
6 you're trying to do then. My mistake.

7 CHAIRMAN: We're looking at whether we approve
8 this Staff Report for the rezoning based on the fact
9 that it's going to come off of Old 144 as your means
10 of access.

11 MR. TAYLOR: I thought there was a question
12 about if that access was acceptable.

13 CHAIRMAN: I think the question there was
14 based on looking at, physically looking at that
15 accessibility. That entrance at this point is a
16 pretty narrow entrance. The question was if this were
17 to move forward at some point in time would that
18 access be widened or made larger for the traffic
19 that's going to be coming in and out of there. You
20 know, tractor-trailers, cars.

21 MR. TAYLOR: Would that be done by the
22 applicant as a part of their process?

23 MR. HOWARD: Yes.

24 MR. TAYLOR: Then that question would be
25 turned back over to Brandy.

1 MS. ZACKERY: I guess my only question would
2 be is that if we cannot get a tractor-trailer -- I
3 mean honestly just from looking at it the lot is not
4 very large, the parcel that we're going to rezone to
5 actually have development on. I feel like it's going
6 to be very difficult to be able to get a truck in and
7 backed up to where they can get back out. I mean I
8 think they can definitely, if they're heading east on
9 144, they can make that turn on Old 144 and get into
10 our parking lot, if it's close to the new 144. My
11 concern once they get in there, I don't think we have
12 enough room for them to get back out and exit that
13 same entrance.

14 MR. HOWARD: And there's nothing that say that
15 you couldn't have two access points to the Old 144.

16 MS. ZACKERY: There's not enough room I don't
17 think on the parcel to allow complete circular
18 movement of the tractor-trailer, you know, in the
19 front and out the back of Old 144. I don't think.

20 So my question is: If we go back and look at
21 that and we can make it work, is there any type, if
22 it's approved by KYTC with it being a state route, do
23 you ever approve any kind of variance to your 500 foot
24 access standard? I don't know how long they've been
25 there. They may have been there way before your

1 access manual was in place. There is three entrances
2 also in length of our property just across the road.
3 That's the reason it never even crossed my mind that
4 we may not be able to have an entrance.

5 MR. HOWARD: This commission has the ability
6 to address those concerns. They could potentially
7 alter the requirements of the access management manual
8 and grant an additional access point to 144. I will
9 say typically on a commercial development on a state
10 highway, again, depending on size, and this would be
11 through discussion of the transportation cabinet, but
12 the transportation cabinet often will require some
13 type of a traffic analysis to demonstrate an
14 additional access point to the state highway won't
15 impede traffic flow and that type of thing.

16 It's up to the commission. You all can
17 certainly consider that as an alternative. You may
18 want to reword the condition so that it could
19 potentially allow some flexibility in that.

20 CHAIRMAN: Question in thinking about this.
21 If I'm not mistaken, when you access that Old 144
22 there's a fairly sizeable hill on the east side of
23 that old road.

24 MR. TAYLOR: That is correct.

25 CHAIRMAN: Quite a bit of elevation

1 differential.

2 MR. TAYLOR: Fifteen, twenty feet maybe.

3 CHAIRMAN: Right. Exactly. Would be a
4 consideration -- since your property would be to the
5 center line of the old road. Is that what I
6 understood?

7 MR. TAYLOR: If it was given back to the
8 adjoining property owners.

9 CHAIRMAN: If it was given back. Would there
10 be a consideration on your part to remove the
11 necessary dirt off of that hillside to widen that road
12 if you had to for more accessibility?

13 MS. ZACKERY: Accessibility into the new
14 development?

15 CHAIRMAN: Into the Old 144.

16 MS. ZACKERY: Like I said, I haven't started
17 looking at grading and drainage plans yet, but
18 definitely if there's that big of a slope there, then
19 that's going to cause issues also because we're only
20 allowed -- by Dollar General standards, the most we
21 can have our entrance at is 8 percent. So that
22 definitely would be way over 8 percent incline for
23 traffic coming in off of the old road. So we would
24 have to do something with the grading. We would have
25 to knock a lot of it down if it's that much higher.

1 MR. KAZLAUSKAS: Mr. Boswell, I think we're at
2 a point where this board would certainly like to work
3 with you to zone this property to make it functional
4 the best we can, but I think you have questions about
5 what can be done right now. So I might make a
6 suggestion that maybe you go back and do a little
7 research on what is acceptable to you and the property
8 owner, and then get with our Staff to see what the
9 staff could work out to see if that could be placed on
10 there. Right now it seems like we don't have all of
11 the information that we need to move forward with
12 this.

13 MS. ZACKERY: My biggest concern would just be
14 at least knowing how much flexibility do we have on
15 possibly getting something, a variance on the 500 feet
16 access standard.

17 MR. KAZLAUSKAS: To 144?

18 MS. ZACKERY: Yes. I don't mind going back
19 and working on some concepts and even giving you
20 concepts that shows both ways trying to get a truck in
21 and out and things of that nature, looking at the
22 grading. Because we have already surveyed the
23 property. So I can look at how steep the slopes would
24 be and that kind of thing coming off of the old road.

25 I will say that currently our layout has one

1 entrance and it was off the new 144, and the truck was
2 able to get in, turn around and back up to the loading
3 area and get out. That was our plan. The access is
4 the only thing I am a little bit concerned about.

5 CHAIRMAN: If we approve this tonight though,
6 you would still be doing that work irregardless of
7 whether it's approved tonight or not. You're still
8 going to have to look that?

9 MS. ZACKERY: I'm still going to have to look
10 at that. I just want to be clear on how much
11 flexibility we have in possibly working with the Staff
12 and KYTC, if needed, to get an entrance onto 144 if we
13 can't get a delivery truck in and out of Old 144.
14 That's my question.

15 MR. BALL: One of the opportunities in the
16 event that we move forward tonight with the conditions
17 on this plat, because I know time is typically of the
18 essence, what opportunities does she have in the
19 future to look for some type of variance on that
20 access, on 144?

21 MR. HOWARD: As written, if these conditions
22 are applied to the zoning change and it's approved and
23 it turns out they can't and they want to make some
24 type of alteration with access to 144, they would have
25 to come back through and rezone the property and amend

1 those conditions. That's why I said you may want to
2 consider some type of rewording of that to keep that
3 potentially open.

4 To answer your question. This commission has
5 the authority or ability to do that. Staff can't just
6 arbitrarily go out there and from our perspective say,
7 yes, you can you have an access to 144. It violates
8 that access that spacing standard, but the commission
9 has the latitude to do that. That's why this process
10 is in place.

11 MS. ZACKERY: Okay. Would it be a possibility
12 if the zoning was approved to have a condition that we
13 bring the site plan back? That way you have an
14 opportunity to try to see whether or not -- we can
15 work with you beforehand before we come back to see if
16 the access would work off of 144, the Old 144, but if
17 it wouldn't work off the Old 144, then we would have
18 the opportunity to come back in front of them to
19 possibly get the entrance on 144 approved?

20 MR. HOWARD: That's an option as you the
21 commission would have. If you go that route, you
22 would need to make a condition that they submit a
23 final development plan that would come before you as
24 part of the approval process for that site. We would
25 certainly get the transportation cabinet involved,

1 yes.

2 MS. ZACKERY: We would have to get an
3 encroachment permit from them for any grading or
4 anything. So they would have to approve that?

5 MS. KNIGHT: Yes, I think that would be
6 appropriate to add to the condition too.

7 CHAIRMAN: I think we can make a motion to go
8 ahead and consider approval with the condition that
9 the final approval would have to be reviewed by the
10 commission and the planning and zoning department?

11 MR. HOWARD: Yes. I think you would make a
12 condition that a final development plan be submitted
13 that would require Planning Commission body approval,
14 and during that time, and you may want to tack on the
15 transportation cabinet would be involved as well.

16 CHAIRMAN: Then I would make a motion for
17 approval based on those conditions.

18 MS. KNIGHT: Mr. Boswell, the Chair can't make
19 the motion.

20 CHAIRMAN: My apologies.

21 MR. FREY: Do we have anybody that needs to
22 speak in opposition?

23 CHAIRMAN: Do we have any opposition to this?

24 (NO RESPONSE)

25 MR. MOORE: One question before we vote.

1 The question the gentleman brought up about
2 why on this and yes on something down the road. Is
3 somebody going to get this gentleman an answer?

4 MR. HOWARD: We'll look at it. It's one of
5 those things that if it happened in 1997, that was 17
6 years ago, we'll look back through the records and do
7 our best, but none of the Planning Staff was in the
8 office at that time. So there's not a whole lot of
9 institutional history there, but I will be glad to
10 look into it and see what we find.

11 MR. MOORE: I think that's what that gentleman
12 wants.

13 MR. TAYLOR: If there's going to be some
14 exception made, I'd like to see what exceptions were
15 made then, and if those same exemptions would be
16 applicable now. Obviously some exceptions were made
17 for the D&D Hardware rezoning prior to 1997. I'd just
18 like to see if those same exceptions could not be
19 applicable to this property that I'm wanting to
20 rezone.

21 MR. KAZLAUSKAS: Mr. Taylor, I think you
22 mentioned that it was overturned by fiscal court?

23 MR. TAYLOR: The zoning was overturned, yes.
24 The zoning was approved by fiscal court to B-4.

25 MR. KAZLAUSKAS: Okay.

1 MR. FREY: So it would have been from the
2 Planning Commission denied?

3 MR. TAYLOR: That is correct. We never got to
4 the point about the entranceway, but that was a point
5 that I was going to bring up and then some personal
6 changes I didn't proceed with that plan at that time.
7 I can get some pictures, if you would like for me to
8 bring them, of the entranceway of the D&D Hardware
9 store and show you the distance there. It's not even
10 50 feet much less 500.

11 MR. HOWARD: That won't be necessary. We can
12 look at GIS and see that type of thing. I'll do some
13 research on it and see what we find.

14 MR. TAYLOR: I'd appreciate it. If there's
15 some exceptions made for that property, I would like
16 the same consideration.

17 MR. FREY: But those exceptions were made by
18 fiscal court.

19 MR. TAYLOR: No. D&D Hardware was right here
20 before for Planning & Zoning.

21 CHAIRMAN: Any other questions from the
22 commissioners or the audience?

23 (NO RESPONSE)

24 CHAIRMAN: Being none the chair is ready for a
25 motion.

1 MR. KAZLAUSKAS: Mr. Boswell, I'll go ahead
2 and make a motion that the application be approved
3 with Staff Recommendations of Condition Number 1.
4 That Condition Number 2 as it is now be omitted and a
5 new condition be placed in the application. That the
6 applicant get with the Staff and the Kentucky
7 Transportation Cabinet and conduct the appropriate
8 information to develop a plat to bring back for the
9 Staff and before this body.

10 MR. HOWARD: Final development plan.

11 MR. KAZLAUSKAS: Final development. So we can
12 make a decision on whether that access to 144 would be
13 appropriate or not. Does that condition make sense to
14 everybody?

15 CHAIRMAN: Is the applicant agreeable to that
16 condition?

17 MS. ZACKERY: Yes.

18 MR. KAZLAUSKAS: And then Findings of Fact 1
19 through 5. I want to be sure that everybody
20 understands that condition now.

21 You're satisfied with that?

22 MS. ZACKERY: Yes.

23 MR. KAZLAUSKAS: Because it can go either way
24 based on the information that is provided to this body
25 later on.

1 MS. ZACKERY: Yes. But it's not completely
2 denied, the access to 144?

3 MR. KAZLAUSKAS: No.

4 MR. BALL: Let me make sure I still
5 understand.

6 In the event the final development plan comes
7 back and we feel like it would work on Highway 144,
8 Old Highway 144, it's more appropriate we then would
9 have the opportunity to go either direction; is that
10 correct, Brian?

11 MR. KAZLAUSKAS: That's my intent.

12 CHAIRMAN: If so agreeable with the
13 transportation department based on the data that they
14 would find in their investigative work. That's the
15 way I understood it?

16 MR. KAZLAUSKAS: Basically what I'm asking the
17 applicant to do is work with the Staff and the
18 Kentucky Department of Transportation to provide us
19 with what the best option is. There could be a
20 possibility that it's going to be impossible to put an
21 access point on 144, but this way it gives the
22 applicant the opportunity to explore the process, to
23 see if it's possible or not.

24 That's what you're after?

25 MS. ZACKERY: Yes.

1 CHAIRMAN: Any further questions?

2 (NO RESPONSE)

3 CHAIRMAN: Motion has been made by
4 Commissioner Kazlauskas. Is there a second?

5 MR. FREY: Second.

6 CHAIRMAN: Second by Commissioner Steve Frey.
7 A motion for approval please raise your right hand.

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: The motion is approved.

10 Minor Subdivision Plats

11 ITEM 5

12 5785 Highway 144, 7.331 acres
13 Consider approval of minor subdivision plat.
14 Applicant: Deane Acres Farms, LLC

15 MR. HOWARD: Mr. Chairman this plat comes
16 before you as an exception to the requirements of the
17 subdivision regulations and the zoning ordinance.

18 What basically ended up happening, there's a
19 division of land, quite a bit of consolidation, large
20 parcels, but you end up with a parcel in here that we
21 have some exceptions on, on the length and width
22 requirement. There's a 7.331 acre parcel that's right
23 in the middle that has access to or frontage on 144.
24 It exceeds that three to one requirement. It also
25 doesn't have the minimum roadway frontage requirement
that you would typically find in an agricultural zone.

1 Considering the amount of property that
2 they're consolidating and eliminating some additional
3 issues on the property, we recommend that you consider
4 it for a one time exception on this lot that doesn't
5 meet the requirements. They have noted on the plat
6 that that property cannot be further subdivided to
7 create additional irregular lots that don't meet the
8 requirements of the subdivision regulations.

9 CHAIRMAN: Is there anyone in the audience
10 that would speak on behalf of this zoning?

11 APPLICANT REP: Yes.

12 CHAIRMAN: Are there any questions by the
13 commissioners?

14 (NO RESPONSE)

15 CHAIRMAN: Being none the chair is ready for a
16 motion.

17 MR. PEDLEY: Motion for approval.

18 MR. JEAN: Second.

19 CHAIRMAN: Motion for approval by
20 Commissioner Pedley. Seconded by Mr. Lewis Jean. All
21 those in favor raise your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion is approved unanimously.

24 ITEM 6

25 3137 & 2935 Highway 54, 191.312 acres
 Consider approval of minor subdivision plat.

1 Applicant: Gateway Land, LLC

2 MR. HOWARD: This plat comes before you as an
3 exception as well. As you can see by the acreage,
4 it's a large amount of property that's being
5 consolidated into one tract. It comes before you all
6 because they are requesting to create these four
7 parcels or four little 20 by 20 areas along the bypass
8 frontage that are intended to be used for signage
9 along the highway. Often times when the property is
10 in the county and someone wants to put billboards on
11 the property, that type of thing, they'll go ahead and
12 pull the permits from our office, build the sign, and
13 then when it's annexed they're there already so they
14 get to stay.

15 In this instance, this is part of the TIF
16 project and the timing with annexation that doesn't
17 work. So what their engineer did is they came up with
18 this plan to create those four small exceptions to
19 allow this to carry forward as is. They put a note on
20 the plat that says that these four 20 by 20 areas are
21 non-buildable lots, other than for potential of
22 putting signage on them. So they're not going to come
23 back at some point and try to put some type of
24 building or something else on that property. It's not
25 large enough to support anything else.

1 It is a way to try to keep what their desire
2 is moving forward while still achieving the goal and
3 getting the property annexed and brought into the
4 city. So it's ready for your consideration.

5 CHAIRMAN: Is there anyone for the applicant
6 here to speak?

7 APPLICANT REP: Yes.

8 CHAIRMAN: Any commissioners with questions?

9 (NO RESPONSE)

10 CHAIRMAN: The chair is ready for a motion.

11 MR. BALL: Move to approve.

12 MR. KAZLAUSKAS: Second.

13 CHAIRMAN: Move to approve by Commissioner
14 Ball. Second by Commission Kazlauskas. All those in
15 favor raise your right hand.

16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17 CHAIRMAN: Motion approved unanimously.

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19 NEW BUSINESS

20 ITEM 7

21 Consider approval of February 2015 financial
statements

23 CHAIRMAN: Presuming that all the
24 commissioners got a copy of it and have had a chance
25 to look through it. Are there any questions or

1 changes?

2 (NO RESPONSE)

3 CHAIRMAN: Being none the chair is ready for a
4 motion.

5 MR. FREY: Motion to approve.

6 CHAIRMAN: Motion to approve by Commissioner
7 Frey. Is there a second?

8 MR. KAZLAUSKAS: Second.

9 CHAIRMAN: Commissioner Kazlauskas has given
10 us a second. All those in favor raise your right
11 hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: The motion is approved unanimously.

14 ITEM 8

15 Comments by the Chairman

16 CHAIRMAN: Mr. Reeves could not be here
17 tonight and we appreciate Mr. Boswell filling in.

18 Do you have any comments?

19 CHAIRMAN: Not at this point.

20 ITEM 9

21 Comments by the Planning Commissioners

22 (NO RESPONSE)

23 ITEM 10

24 Comments by the Director.

25 MR. HOWARD: I just have two brief things.

1 One is May 13th through 15th the State
2 Planning Conference will be held in Owensboro,
3 Kentucky at the Convention Center. So we would like
4 to invite, you know, extend the opportunity for any of
5 our commissioners, anyone in the community that has
6 interest in planning and zoning issues to come and
7 attend. It's usually attended by anywhere from 75 to
8 100 planners. There are a few attorneys, landscape
9 architects, engineers that will be there. It's
10 basically two days of sessions that deal with
11 planning-related activities. I would like to mention
12 that and extend the opportunity for anybody to attend
13 that would like. If anybody would like to attend, you
14 can get in touch with our office and we can get the
15 registration information to you.

16 Second, I want to mention is that the
17 legislative session that just ended. There was one
18 thing that impacted us from a legislative standpoint
19 matter. That deals with coal mining.

20 We had zoning regulations in place prior to
21 1988. Henderson County had them as well. That
22 allowed us to have local regulations when someone
23 proposed a coal mining rezoning. That's been in place
24 forever.

25 This past legislative session, there was an

1 amendment to that section of KRS that eliminates the
2 provision that allows local jurisdictions that had
3 planning rules in place prior to 1988 to continue to
4 enforce those rules.

5 So based on our understanding and talking with
6 Terra and she's reviewed as well and her
7 understanding, we really at this point no longer have
8 local control over coal mining rezonings at all. They
9 would follow the process that's worked in any other
10 county in the state, other than Henderson and Daviess
11 County. If someone wants to mine property. They
12 don't have to go through Planning, us here locally,
13 any longer. They get their permits in place through
14 the state. It's a change. I think it's really one on
15 the negative side because it did allow us to review
16 those things locally and potentially -- it's not
17 great, but it's done. In the event that there's an
18 appeal or anything of that, the legislation will
19 certainly keep you posted. Otherwise, we probably
20 won't be hearing any more coal mining rezoning cases
21 in Daviess County.

22 Those are the only two comments I had.

23 CHAIRMAN: Any comments by the commissioners?

24 (NO RESPONSE)

25 CHAIRMAN: Comments from the audience?

1 (NO RESPONSE)

2 CHAIRMAN: Hearing none. We need a motion for
3 adjournment.

4 MR. KAZLAUSKAS: So move.

5 CHAIRMAN: Motion by Commission Kazlauskas.
6 Do I hear a second?

7 MS. McENROE: Second.

8 CHAIRMAN: Second by Commissioner McEnroe.
9 All those in favor raise your right hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: We are adjourned.

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